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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

0878

First named inventor: HAMMER, Mordechai

Application No.: 08/894,211

Group Art Unit: 3226

Filed: July 30, 1997

Examiner: A. Knight

Title: EXTENSIBLE AND RETRACTABLE ELEMENTS AND VARIOUS USES FOR THE ELEMENTS

Attention: Office of Petitions  
Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703)305-9282.

The above identified application became abandoned for failure to file a timely and proper response to the Office action mailed on October 28, 1998, which set a 3 month/day period for response. The abandonment date of this application is January 29, 1999 (i.e., the day after the expiration date of the period set for response plus any extensions of time obtained therefor).

## APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Proposed response and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Statement that the entire delay was unintentional.

## 1. Petition fee

- ☒ Small entity - fee \$ 605 (37 CFR 1.17(m))  
☐ Small entity statement enclosed herewith.  
☒ Small entity statement previously filed.  
☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

## 2. Proposed response and/or fee

- A. The proposed response and/or fee to the above-noted Office action in the form of an amendment and \$ 9.00 fee for additional dependent claim (Identify type of response).  
☒ has been filed previously on April 28, 1999 but was not entered.  
☒ Is enclosed herewith. (copy re-submitted with attachments including Article 34 amendments) The \$9.00 is attached in a separate paper.
- B. The Issue fee of \$ \_\_\_\_\_  
☐ has been paid previously on \_\_\_\_\_.  
☐ Is enclosed herewith.

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 1.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) equivalent to the number of months from abandonment to the filing of this petition is enclosed herewith.

4. Statement. The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

- \* Attached is a detailed explanation of the cause of the delay.  
Where a petition under 37 CFR 1.137(b) is not filed within three months from the mail date of a notice of abandonment or one year from the date of abandonment, explain (on an attached sheet) in detail the cause of the delay in filing this petition.

January 13, 2000  
Date

Mordechai Hammer  
Signature

Telephone  
Number: (972) 3-695 2091  
(Tel Aviv, Israel)

Mordechai Hammer  
Typed or printed name

9 Lessin Street

Address

Tel Aviv, Israel

Enclosures: ☒ Response

☒ Fee Payment

☐ Terminal Disclaimer Form

☐ Small Entity Status Form

This Petition prepared by:

Edward Langer 13 Jan 2000  
Edward Langer, Atty.  
Reg. No. 30,564

- \* ☒ Detailed description of the cause of delay.

HANDCARRIED HANDCARRIED  
By completing the Certificate of Mailing, below, the date mailed will be considered the date this correspondence is filed.

CERTIFICATE OF MAILING [37 CFR 1.8(a)]

HANDCARRIED  
I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, DC 20231.

1/20/00  
Date

DAVID HUNT  
Signature

DAVID HUNT  
Typed or printed name of person signing Certificate

miscell\0878amd.ltr 17.1.00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : HAMMER, Mordechai

Serial No. : 08/894,211

Filed : July 30, 1997

For : EXTENSIBLE AND RETRACTABLE ELEMENTS AND  
VARIOUS USES FOR THE ELEMENTS

Group Art Unit 3626  
Examiner: W. Ackerman

Raanana, Israel  
January 17, 2000

Hon Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Sir:

SUBMISSION OF ADDITIONAL FEE

The accompanying amendment presents one new dependent claim, and it is believed that an additional filing fee is required in accordance with the following calculation:

	Independent	Total Claims
Claims now pending	1	49
Less: Highest number of claims previously paid for	3	48
(Small Entity) Fee due :	0 x \$39.00 +	1 x \$9.00 = \$9.00

A check in the amount of \$9.00 is attached for an additional dependent claim.

In the event of an insufficiency or omission in the fee, please contact me immediately so that I may arrange for payment.

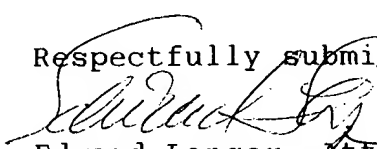
01/21/2000 PLEWIS 00000004 08894211

01 FC:241 605.00 DP

01/21/2000 PLEWIS 00000005 08894211

01 FC:203 9.00 DP

Respectfully submitted,



  
Edward Langer, Attorney  
Reg. No. 30,564

DETAILED EXPLANATION OF CAUSE OF DELAY IN FILING REQUIRED REPLY TO  
OFFICE ACTION OF OCTOBER 28, 1998


1. I, Mordechai Hammer, applicant in the subject application for which revival is requested, do hereby state as follows:
2. My patent attorney, Mr. Edward Langer, prepared a response to the subject Office Action.
3. Mr. Langer, who maintains his office in Israel, sent me the response to my residence, in New York City, and I received it on April 26, 1999, with instructions for me to file it by April 28, 1999 and to attach a check in the amount of \$ 444,000 for the 3-month extension period and the additional claim added, and to file the papers by 1st Class mail with a Certificate of Mailing which he sent me.
4. I went to my bank, EAB at 1107 Broadway, New York City, where I maintain a checking account, to obtain a certified bank check, and was told I could write a personal check and have the bank certify it.
5. I wrote a personal check No. 132 dated April 28, 1999, and had the bank certify it. This was done by a stamp on the face of the check indicating it was "CERTIFIED". (Attach. "A1", "A2" )
6. I enclosed the certified check together with the response in an envelope, and also enclosed a Certificate of Mailing (Att. "B") dated April 28, 1999, and went to the NY City Post Office.
7. I posted the envelope containing the items in para. 6 as 1st Class certified mail to the US PTO, with a return receipt to be stamped "received" by the PTO. (Att. "C").
8. I received a letter from the bank and learned that the check, which had been certified by the bank, was not honored by the bank.
9. I told this to Mr. Langer and asked him what to do. Mr. Langer told me that if the case was abandoned, I have one year after the abandonment date to request revival of the application.
10. I demanded a letter of explanation from the bank and they admitted their mistake. (Att. "D")
11. The bank provided me with a new check (Att. "E") for sending to the PTO.
12. I also spoke to Examiner Knight, and Examiner Knight told me that since the application was abandoned, I could not send the new check, and that I will first have to overcome the abandonment.
13. Mr. Langer received a notice on June 7, 1999 from his NY agent, Mr. Andrew Langsam, to call the Examiner on the subject case, Mr. Anthony Knight at (703) 308-3179.
14. Mr. Langer spoke with Mr. Knight and learned the application was abandoned for failure to pay the necessary extension fee. Mr. Langer told me that the application was abandoned.
15. I spoke to the bank manager, Mr. James Paguaga, and he gave me the tel. no. of their lawyers, who told me that they had called the Patent Office to find out about the right procedure to use, to fix the problem and they were told by the PTO that the application was not abandoned, so they refused to pay the money for the procedure of the revival.
16. I had difficulty with paying money for the procedure of the revival at that time, since I have been burdened with costs due to my legal proceeding against a previous patent agent, now before the Israel Supreme Court.
17. I asked Mr. Langer to send me any PTO notices that he received to my NYC address.
18. On July 7, 1999, Mr. Langer received a notice via his NY agent that the case was abandoned.
19. As stated above, Mr. Langer is my US patent attorney, so I asked him to fix the problem.
20. I returned to Israel in the month of October 1999, after being in the USA for 1.5 years and it has taken me several months time to get re-settled, after having moved to a new address in Tel Aviv.
21. I visited Mr. Langer's office on this problem in Jan. 2000, and he prepared this petition.
22. I did not intend for any of the delay to occur, and it is clear the delay was the bank's fault.
23. I make this statement in support of my petition to revive the application, and all of the statements I have made are true.

Date JAN 13 2000 Mordechai Hammer Mordechai Hammer

A1

CERTIFIED		132
	MORDECHAI HAMMER	1-148 186
	145 W 88TH STREET APT. 26E NEW YORK 10025	210 186 183 759
PAID BY THE ORDER OF THE COMMISSIONER OF PATENTS AND TRADE MARKS		1,228.99
*****444.00**		
Pay to the order of: COMMISSIONER OF PATENTS AND TRADE MARKS		\$ 444.00
Four hundred + forty four		
AUTHORIZED SIGNATURE		
	1107 Broadway New York, NY 10010	DO NOT DESTROY
MORDECHAI HAMMER		
Mordechai Hammer		
⑆021001486⑆ 186 183 759 91 0132		

(A2)

	MORDECHAI 145 W 96TH NEW YORK, NY 10024	<b>DO NOT DESTROY THIS CHECK</b>	132
	Pay to the order of <u>COMMISSION</u> <u>Four hundred</u>	<p>If not used for the purpose intended, please return for re-deposit to your account.</p> <p>This is a bank instrument and not subject to stop payment. If it is lost, stolen, or destroyed, an indemnity bond may be required with the request for a replacement.</p> <p>REMOVE THIS LABEL WHEN NEGOTIATING CHECK</p> <p><b>EAB</b></p> <p>EAB 2108 FEB 87 (JP2/97) 100PAD</p>	99 ; 444.00
<b>EAB</b>	N 907940589	MORDECHAI HAMMER Mordchai Hammer	
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner of Patents, Washington, DC 20231

on (4.28.99) APRIL 28 1999

by Mondechai Hammer  
(Name of person making deposit)

Mondechai Hammer  
Signature

APRIL 28 1999  
Date

(B)



(C)

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- ☐ Complete items 1 and/or 2 for additional services.  
Complete items 3, 4a, and 4b.  
☐ Print your name and address on the reverse of this form so that we can return this card to you.  
☐ Attach this form to the front of the mailpiece, or on the back if space does not permit.  
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☐ The Return Receipt will show to whom the article was delivered and the date delivered.

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1. ☐ Addressee's Address  
2. ☐ Restricted Delivery

3. Article Addressed to:

U.S. PATENT AND  
TRADEMARK OFFICE  
WASHINGTON D.C.  
20231

4a. Article Number

2 288 371 766

4b. Service Type

- ☐ Registered ☐ Certified  
☐ Express Mail ☐ Insured  
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

APR 30 1999

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Addressee or Agent)

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Postage

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Postmarking Date

APR 28 1999

PS Form 3811, April 1995

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090 POSTAGE 5.00

TOTAL: 0.00

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NEW YORK, NY 10001-0001

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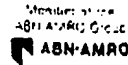
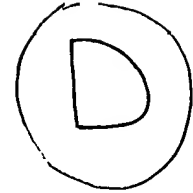
\*\*\* THANK YOU \*\*\*



James Paguaga  
Vice President

1107 Broadway  
New York, NY 10010

Phone: (212) 645-3200  
Fax: (212) 924-8735  
Email: james.paguaga@eab.com



June 7, 1999

COMMISSIONER OF PATENTS & TRADE  
RE: MORDECHAI HAMMER-CERTIFIED CHECK

Dear TO WHOM IT MAY CONCERN:

PLEASE ACCEPT THIS APOLOGY LETTER FOR OUR CUSTOMER,  
MORDECHAI HAMMER - #186-165759.

ON 4/28/99, CK# 132 FOR \$ 444.00 WAS CERTIFIED BY OUR BANK.  
HOWEVER, DUE TO A BANK PROCESSING ERROR, THE CERTIFIED  
CHECK WAS RETURNED IN ERROR.

THIS CHECK WAS RETURNED IN ERROR & THUS, WE HAVE REVERSED  
ALL CHARGES TO OUR CUSTOMER & WE WISH TO HAVE ALL OF YOUR  
PENALTIES REVERSED AS WELL...

PLEASE ACCEPT THIS LETTER AS EVIDENCE THAT OUR MUTUAL CUSTOMER,  
MORDECHAI HAMMER, SHOULD NOT BE HELD RESPONSIBLE FOR THIS ERROR &  
ALL CHARGES ASSOCIATED BY THIS ERROR BE REFUNDED BY OUR BANK.  
HE IS A LONG-STANDING, VALUED CUSTOMER AT OUR BRANCH.

IF YOU SHOULD NEED ANY FURTHER INFORMATION, PLEASE DON'T HESITATE  
TO CALL ME AT (212) 645-3200.

SINCERELY YOURS,

JIM PAGUAGA  
BRANCH MANAGER-VICE PRESIDENT  
EUROPEAN AMERICAN BANK  
1107 BROADWAY BRANCH

cc. MORDECHAI HAMMER

1107 Broadway  
New York, NY 10010  
Tel: (212) 645-3200  
Fax: (212) 924-8735

Member FDIC



Equal  
Housing  
Lender

OFFICIAL CHECK

**EAB**

EAB Plaza  
Uniondale, NY 11555

4234453

06/07/1999

Date

1-148/210



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TRADEMARKS  
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(IF \$50,000 OR MORE A SECOND AUTHORIZED  
SIGNATURE IS REQUIRED)

⑆4234453⑆ ⑆021001486⑆ 401000000 5⑈

E